

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 362 of 2019

- Dharmraj Yadav, S/o Loknath Yadav, aged About 31 Years, R/o Village Nawapara Dabhra, Tahsil-Dabhra, District-Janjgir Champa Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through District Magistrate Janjgir, District-Janjgir Champa, Chhattisgarh.

---- Respondent

For Applicant : Mr. Arvind Shrivastava with Mr. Vikash Shrivastava,
Advocates.
For Respondent : Mr. Rahim Ubwani, Panel Lawyer.
For Objector : Mr. Ishwar Jaiswal, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

13/03/2019

1. The applicant has preferred this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.08/2019 registered at Police Station-Dabhara, District-Janjgir-Champa(C.G.), for the offence punishable under Section 376 of the Indian Penal Code.
2. Learned counsel for applicant submits that applicant is innocent and has been falsely implicated in this case. The prosecutrix is a major woman of age 28 years and it is stated in the FIR, that the applicant and prosecutrix both had love affair. However, the applicant denies having any affair and physical relation with the prosecutrix. The FIR is

delayed by almost 5 months and there is no explanation given in this respect. Prior to lodging of FIR the dispute between applicant and the prosecutrix was settled by an agreement, which is attached with the application as Annexure-A2, in which, the prosecutrix has given statement that she and the applicant both intended to perform intercaste marriage, but later on both of them have realized and will not go for the same. It is submitted that the agreement dated 13.9.2018 does not mention of any physical relation with complainant, which further shows that the case against the applicant is concocted, therefore, it is prayed that applicant may be granted anticipatory bail.

3. Learned State Counsel opposes the bail application and the submissions made in this respect. It is submitted that according to the contents of the FIR lodged and the statement given by the prosecutrix, no case is made out for grant of anticipatory bail.
4. Learned counsel for the Objector after adopting the arguments advanced by State counsel submitted that the agreement was prepared by the applicant himself, in which, the signature of the prosecutrix was obtained by force and by putting her under threat. The prosecutrix is present in person before this Court, who has stated that she was raped by the applicant and when she became pregnant and her pregnancy was forcefully aborted by the applicant, therefore, his application be rejected.
5. In reply to these arguments, the counsel for applicant submits that the prosecutrix has never come forward before lodging of FIR to raise objection with respect to the obtaining her signature forcefully in the agreement. The agreement is dated prior to the lodging of FIR, on which the prosecutrix has not denied her signature, therefore,

applicant is entitled for grant of anticipatory bail.

6. Heard both the parties and perused the case diary.
7. Written complaint was given by prosecutrix on 2.1.2019 stating, that when she was minor the applicant allured her with promise to marry her and established physical relation with her on number of occasions in different places. When the prosecutrix became pregnant, she was forced to abort her pregnancy by administering some medicine to her. When the prosecutrix demanded for marriage, the applicant has refused and threatened her that in case she files any complaint he will get her mother killed.
8. Considered on the entire material present in the case diary, the case is still under investigation and the objection raised in this case may be investigated to find out the truth in the same. Further, looking to the nature of allegation levelled against him and the gravity of offence alleged to have been committed by him, I do not feel inclined to grant anticipatory bail to the applicant.
9. Accordingly, the anticipatory bail application is rejected.

Sd/-

(Rajendra Chandra Singh Samant)
Judge